

The Law Offices of

# JOHN J ZIDZIUNAS & ASSOCIATES

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October 18, 2016

**(Via E-File)**

Hon. Madelaine Cox Arleo  
M.L. King Jr. Federal Bldg. & U.S. Courthouse  
50 Walnut Street, room 4015  
Newark, New Jersey 07101

**Re: Estate of Whadoo Caldwell v. New Jersey Dept. of Corrections  
Docket No.: 16-cv-4538 (MCA-MAH)  
Our File No.: 0209-0079**

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Dear Judge Arleo:

This office represents the Plaintiff, Estate of Whadoo Caldwell, in the above referenced matter. Presently pending before the Court is Defendants, New Jersey Dept. of Corrections and Northern State Prison's, motion to dismiss for lack of subject matter jurisdiction.

We write to advise the Court that we have conferred with opposing counsel, Nicole E. Adams, Esq., and agree with her position that under the Eleventh Amendment, Defendants New Jersey Dept. of Corrections and Northern State Prison can only be sued in New Jersey state court for proper subject matter jurisdiction. To that end, we have agreed to Stipulate to Dismiss Plaintiff's Complaint, without prejudice, so that we may file our claims properly in Essex County Superior Court and proceed there.

For your review, we enclose a proposed Order Stipulating to Dismiss our claims without prejudice to allow a new filing in state court. Notably, Ms. Adams does not represent the remaining Defendant, Rutgers Biomedical Services, who



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has not Answered or otherwise moved in this case after being properly served. If they continue to not Answer after we re-file in State Court, we will default them there.

Should the Court have any questions, please do not hesitate to contact me.

Respectfully submitted,

*/s/ John J. Zidziunas*

JOHN J. ZIDZIUNAS  
*For the Firm*

JJZ/dbm  
C: Nicole E. Adams, Esq. (via e-file)